

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RONALD BROWN,

Plaintiff,

vs.

**JUANITA BROWN, RHONDA
MOORE, T.D. GENSLER, ROBERT
HOUSTON and DOUGLAS COUNTY
DEPARTMENT OF CORRECTIONS,**

Defendants.

8:04CV72

ORDER

This matter comes before the Court on the Motion of Defendants Juanita Brown, Rhonda Moore and T.D. Gensler (the "CMS Defendants") for relief from an erroneously filed answer (filing 49). Also before the Court is the Douglas County Attorney's motion to withdraw his appearance and the answer filed on behalf of the CMS Defendants (filing 40).

The CMS Defendants are current or former employees of Correctional Medical Services ("CMS"), a private entity providing contract medical care at the Douglas County Correctional Center. Plaintiff never served any of these Defendants but the Douglas County Attorney mistakenly entered an appearance and filed an answer on their behalf. In April 2005, the Douglas County Attorney discovered the mistake and filed a motion to withdraw his appearance and answer. The CMS Defendants had no knowledge of the lawsuit until notified of it by the Douglas County Attorney in conjunction with the motion to withdraw.

The CMS Defendants now appear voluntarily through their counsel, Cline, Williams, Wright, Johnson & Oldfather, L.L.P., and request the Court to:

- (1) Grant the Douglas County Attorney's motion to withdraw;
- (2) Deem the answer filed by the Douglas County Attorney withdrawn as to them;
- (3) Grant them thirty (30) days to file a responsive pleading; and,
- (4) Stay discovery, mandatory disclosures, and the current progression order as to them until the time of the Rule 16 conference now set for July 11, 2005.

Counsel for the Douglas County Defendants and the for the Plaintiff do not object to this relief.

IT IS ORDERED that Motions Nos. 40 and 49 are granted in their entirety, as follows:

1. Attorney Derek Vaughn is given leave to withdraw as counsel for defendants Juanita Brown, Rhonda Moore and T.D. Gensler only. Mr. Vaughn shall remain counsel of record for defendants Douglas County Department of Corrections and Robert Houston. **The Clerk shall correct the docket sheet to reflect these changes.**

2. The Answer [23] filed on behalf of defendants Brown, Moore and Gensler is deemed withdrawn as to those defendants, but shall remain effective as to defendants Douglas County Department of Corrections and Robert Houston. **The Clerk shall amend the docket text to filing No. 23 to reflect this change.**

3. Defendants Brown, Moore and Gensler are given until **June 24, 2005** to answer or otherwise respond to the Complaint.

4. Discovery, the obligation to make mandatory disclosures, and the deadlines in the current progression order are stayed as to Defendants Brown, Moore and Gensler, until the Rule 16 conference currently scheduled for July 11, 2005, at 11 a.m. **This order does not stay the entire case.**

DATED May 23, 2005.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge